

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Petition of AT&T Inc. For Forbearance  
Under 47 U.S.C. § 160 From Enforcement  
Of Certain of the Commission's  
Cost Assignment Rules

WC Docket Nos. 07-21, 07-204 and  
07-273

Review of AT&T, Verizon and Qwest  
Compliance Plans

To: Secretary, Federal Communications  
Commission

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**REPLY TO OPPOSITIONS TO APPLICATIONS FOR REVIEW**

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The National Association of State Utility Consumer Advocates ("NASUCA") as an organization, and one of its members, the New Jersey Division of Rate Counsel ("Rate Counsel") (collectively, "State Advocates") hereby file this Reply to the Oppositions to the Applications for Review filed by State Advocates and by COMPTTEL and by AdHoc Telecommunications Users Committee (collectively "COMPTTEL/AdHoc").<sup>1</sup> The Applications sought review of the decision of the Wireline Competition Bureau ("Bureau") issued on December 31, 2008, in which the Bureau approved the three compliance plans filed by AT&T Inc. ("AT&T"), Verizon Communications, Inc. ("Verizon"), and Qwest Corporation ("Qwest") for those companies to receive

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<sup>1</sup> / This reply is filed pursuant to 47 C.F.R. § 1.115(d).

forbearance from the Commission's cost allocation rules.<sup>2</sup> Separate oppositions were filed by AT&T, Verizon and Qwest. None of the arguments raised in oppositions preclude review by the Commission and the grant of the relief requested. As a result, State Advocates' applications should be granted. Fundamentally, State Advocates submit that the exercise of forbearance under Section 160<sup>3</sup> of the Act is subject to the requirements set forth in Sections 554, 556, and 557 of the Federal Administrative Procedure Act.<sup>4</sup>

The arguments raised in the oppositions are misplaced and based upon misreading of applicable law. State Advocates rely upon and support the reasoning advanced in the reply filed by COMPTel/AdHoc on February 23, 2009. Contrary to the arguments in the oppositions, the Bureau actions were not mere ministerial acts<sup>5</sup> and constitute agency action subject to review by the Federal Communications Commission ("Commission") and ultimate review by the Court after the Commission acts on the applications for review now before it.<sup>6</sup>

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<sup>2</sup> / See *Public Notice*, DA 08-2827, dated December 31, 2008, citing *Petition of AT&T Inc. for Forbearance under 47 U.S.C. § 160 from Enforcement of Certain of the Commission's Cost Assignment Rules*, WC Docket Nos. 07-21, 05-342, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) ("*AT&T Cost Assignment Forbearance Order*"), *pet. for recon. pending, pet. for review pending sub nom. NASUCA v. FCC*, Case No. 08-1226 (D.C. Cir. filed June 23, 2008), and *Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, et al.*, WC Docket Nos. 08-190, 07-139, 07-204, 07-273, 07-21, Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC 08-203, 23 FCC Rcd 13647 (2008) ("*Multi-ILEC Forbearance Order*"), paras. 27-28.

<sup>3</sup> / See 47 U.S.C. § 160.

<sup>4</sup> / See 5 U.S.C. §§ 554, 556, and 557.

<sup>5</sup> / If such were the case, there would have been no reason for the Bureau to take public comment on the compliance plans.

<sup>6</sup> / See 47 C.F.R. § 1.115(k) wherein the Commission states that the filing of an application for review is a condition precedent to judicial review of any action taken pursuant to delegated authority.

## CONCLUSION

As a result of the above, the Commission should grant the Applications for Review and grant the relief requested and such other relief as the Commission deems appropriate.

Respectfully submitted,

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